



**MEMORANDUM**

TO: City Council

FROM: L. Kimball Payne, III, City Manager

DATE: January 24, 2002

SUBJ: Proposed New Ordinance

City Attorney Walter Erwin sent the attached memorandum to Council in December. In it he suggests an amendment to the City Code to add a new section that would allow the City to recover some of the costs of responding to a motor vehicle accident caused by DUI. The Police Department has reviewed the proposed ordinance and is in support.

During your work session on January 29 we will ask Council to authorize the placement of the proposed ordinance on a regular agenda for adoption.

CC: Walter Erwin  
Col. Bennett

Attachments



## The City of Lynchburg, Virginia

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OFFICE OF THE CITY ATTORNEY

WALTER C. ERWIN, III  
CITY ATTORNEY

December 20, 2001

JOYCE M. COLEMAN  
SENIOR ASSISTANT CITY ATTORNEY

ELEANOR A. PUTNAM DUNN  
ASSISTANT CITY ATTORNEY

The Honorable City Council  
Lynchburg, Virginia 24505

Dear Council:

During its 2001 session the General Assembly passed legislation allowing local governments to adopt ordinances to recover some of the costs incurred in responding to motor vehicle accidents caused by persons who drive under the influence of intoxicating substances. During a work session, Council Member Garber suggested that the City should considering adopting such an ordinance.

I am enclosing a copy of a Council Report and Ordinance that would add Section 25-169 to the City Code. If adopted, the ordinance will allow the City to bill persons who are convicted of driving under the influence a flat fee of \$100.00 or a minute-by-minute accounting not to exceed \$1 ,000.00 to recover some of the costs of providing emergency services to DUI incidents. Also, I am enclosing a copy of the section of the State Code that authorizes the City to adopt the ordinance.

The proposed ordinance is currently being reviewed by the Police Department. After the Police Department has completed its review I will forward the ordinance to the City Manager's Office for placement on an upcoming Council agenda. In the meantime, if any of the members of Council have any questions concerning this matter, please do not hesitate to contact me.

Respectfully,

Walter C. Erwin,  
City Attorney

cc: ✓ L. Kimball Payne, III, City Manager

## LYNCHBURG CITY COUNCIL REPORT

Meeting Date: \_\_\_\_\_  
Strategic Leadership Team Contact: Walter C. Erwin

Council Report # \_\_\_\_\_  
Report Writer: Walter C. Erwin

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Subject: Add Section 25-169 to the City Code

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Purpose of Action: Add Section 25-169 to the City Code to allow the City to recover some of the costs incurred in responding to DUI incidents.

Requested Action: Consideration of adopting the attached ordinance.

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Prior Action: None

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Attachments: See attached ordinance

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Resolution/Ordinance:

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Other Information: During the 2001 session the General Assembly passed legislation allowing local governments to adopt ordinances to recover some of the costs incurred in responding to motor vehicle accidents caused persons who drive under the influence of intoxicating substances. Adopting such an ordinance will allow the City to bill persons who are convicted of driving under the influence a flat fee of \$100.00 or a minute-by-minute accounting not to exceed \$1 ,000.00 to recover the costs of providing law-enforcement, fire-fighting, rescue and emergency medical services to DUI incidents.

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW SECTION NUMBERED 25-169, RELATING TO THE RECOVERY OF EXPENSES INCURRED IN RESPONDING TO DUI INCIDENTS.

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto Section 25-169 as follows:

Sec. 25-169. Reimbursement of expenses incurred in responding to DUI incidents.

Any person who is convicted of a violation of sections 18.2-514, 18.2-266 or 29.1-738 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, or a similar city ordinance, when a person's operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of any accident or incident resulting in an appropriate emergency response, shall be liable in a separate civil action to the city or to any volunteer rescue squad, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed \$1,000 in the aggregate for a particular accident or incident occurring in the city.

In determining the "reasonable expense," the city or volunteer rescue squad may bill a flat fee of \$100 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the locality or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving or operation of a vehicle as set forth herein.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council

**§15.2- 1716. Reimbursement of expenses incurred in responding to DUI incident.**

Any locality may provide by ordinance that any person who is convicted of a violation of §§ 18.2-5 1.4, 18.2-266 or § 29.1-738, or a similar ordinance, when his operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of any accident or incident resulting in an appropriate emergency response, shall be liable in a separate civil action to the locality or to any volunteer rescue squad, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed \$1,000 in the aggregate for a particular accident or incident occurring in such locality. In determining the “reasonable expense,” a locality may bill a flat fee of \$100 or a minute-by-minute accounting of the actual costs incurred. As used in this section, “appropriate emergency response” includes all costs of providing law-enforcement, tire-fighting, rescue, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving or operation of a vehicle as set forth herein.

(1994, c. 617, § 15.1-132.1; 1995, cc. 683,685, 830; 1997, cc. 587, 691; 2001, c. 505.)

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